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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

**IN RE GOOGLE PLAY CONSUMER  
ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:  
*In re Google Play Consumer Antitrust  
Litigation*, Case No. 3:20-cv-05761-JD

Case No. 3:21-md-02981-JD

**DEFENDANTS' ADMINISTRATIVE  
MOTION FOR LEAVE TO FILE  
RESPONSE TO NOTICE OF FILING OF  
CORRECTED PROPOSED ORDER  
GRANTING CONSUMER PLAINTIFFS'  
MOTION FOR CLASS CERTIFICATION**

Date: August 4, 2022  
Time: 10:00 a.m.  
Judge: Hon. James Donato  
Courtroom: 11, 19th Floor, 450 Golden Gate  
Ave, San Francisco, California, 94102

Case No. 3:20-cv-05761-JD

ADMINISTRATIVE MOTION FOR LEAVE TO FILE RESPONSE TO NOTICE OF FILING OF CORRECTED  
PROPOSED ORDER GRANTING CONSUMER PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

1 Pursuant to Local Rules 7-3(d) and 7-11, Google respectfully requests the Court's leave to  
2 file the attached Response to Consumer Class Plaintiffs' "Corrected" Proposed Order, MDL ECF  
3 310, which was filed less than one week before the class certification hearing set for August 4,  
4 2022, without leave of Court or notice to Google and in violation of the Court's Amended  
5 Scheduling Order in this action and Local Rule 7-3(d). *See* N.D. Cal. Local Rule 7-3(d) ("Once a  
6 reply is filed, no additional memoranda, papers or letters may be filed without prior Court  
7 approval, except" in situations not present here). The attached Response addresses Plaintiffs'  
8 attempt to sidestep one of the many reasons why class certification should be denied: Plaintiffs'  
9 counsel are inadequate. Even if the Court permits Plaintiffs' unauthorized filing, there are many  
10 reasons why class certification should be denied.

11 Although couched in terms of correcting a "drafting error," the "Corrected" Proposed  
12 Order seeks to modify and expand the definition of the proposed damages and injunctive relief  
13 classes that Plaintiffs defined in their class certification motion. Specifically, Plaintiffs seek to  
14 add four individual Plaintiffs who are clients of Class Counsel but do not reside in the states to  
15 which Plaintiffs expressly limited the classes they proposed in their moving papers. In the  
16 attached Response, Google explains that Plaintiffs' "Corrected" Proposed Order is an improper  
17 attempt to address a conflict facing Class Counsel that Google identified in its opposition to  
18 Plaintiffs' class certification motion: Class Counsel are simultaneously representing four  
19 individual named plaintiffs and a proposed class of consumers with overlapping claims, which  
20 renders them inadequate. *See Lou v. Ma Labs.*, 2014 WL 68605 (N.D. Cal. 2014) ("counsel  
21 cannot simultaneously represent a class and prosecute either individual or class claims against the  
22 same defendants in a different proceeding"). As the attached Response explains, Plaintiffs'  
23 "Corrected" Proposed Order in fact further highlights why Class Counsel cannot adequately  
24 represent the proposed class.

25 Google further explains that the Court should not consider the "Corrected" Proposed Order  
26 for any purpose other than as evidence that Class Counsel are inadequate. Plaintiffs did not seek  
27 leave of Court to rewrite their papers in support of their class certification motion to which Google  
28

1 directed its opposition and they cannot show good cause to expand the definition of the proposed  
2 class on the eve of the class certification hearing.

3 Google respectfully requests leave to bring these issues to the Court's attention prior to the  
4 class certification hearing set for August 4, 2022 in the form of the Response attached hereto as  
5 Exhibit A. Google asked Class Plaintiffs to stipulate to this request for leave, but Class Plaintiffs  
6 indicated that they objected. *See* Declaration of Justin P. Raphael at ¶ 6.

7  
8 Respectfully Submitted,

9 DATED: August 2, 2022

10 By: /s/ Justin P. Raphael

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